

Message Text

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DRAFTED BY L/C:TTFHUANG:MB
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NEA/ARN:WNHOWELL (DRAFT)
EXIM BANK:MRS. B.SANTOS (DRAFT)
-----041926 132139Z /75
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FM SECSTATE WASHDC
TO AMEMBASSY DAMASCUS IMMEDIATE

CONFIDENTIAL STATE 163173

E.O. 11652: GDS

TAGS: EFIN, CPRS, US, SY

SUBJECT: U.S. PRIVATE AND OFFICIAL CLAIMS AGAINST SYRIA

REFS: (A) DAMASCUS 4369, (B) STATE 158672

1. DEPARTMENT AND EXIM BANK HAVE CONSIDERED HANDLING OF BOUSTANY CASE AS REQUESTED BY EMBASSY (REF (A)). BOTH AGENCIES BELIEVE THAT, IF POSSIBLE, IT IS DESIRABLE AT THIS TIME BOTH TO RETAIN BOUSTANY CASE IN OFFICIAL LIST OF U.S. CLAIMS AND TO ALLOW PROCEEDINGS OF CASE IN ALEPPO COURT TO RUN THEIR NATURAL COURSE.

2. FROM OUR VANTAGE POINT, WE BELIEVE THAT INCLUSION OF BOUSTANY CASE IN OFFICIAL LIST OF U.S. CLAIMS WOULD NOT NECESSARILY RESULT IN AUTOMATIC AND MANDATORY SUSPENSION OR DISMISSAL OF SUIT IN SYRIAN COURTS. THE INTENT OF BOTH GOVERNMENTS WOULD BE IMPORTANT AND PERHAPS CONTROLLING.
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IF WE ARE FORCED TO CHOOSE NOW BETWEEN MAINTAINING SUIT IN ALEPPO COURT AND INCLUSION OF BOUSTANY CLAIM IN OFFICIAL LIST OF CLAIMS, WE WOULD PREFER THE LATTER.

3. AMBASSADOR MIGHT STATE THAT FAVORABLE OUTCOME OF CLAIM AGAINST SARG IS IMPORTANT TO USG AS A MATTER OF PRINCIPLE

IN VIEW OF ITS PRECEDENTIAL EFFECT WORLDWIDE ON EXIM BANK ACTIVITIES. EXIM BANK MAINTAINS THAT A FOREIGN GOVERNMENT IS RESPONSIBLE FOR THE CONSEQUENCES OF ITS NATIONALIZATIONS. HOWEVER, SINCE BOUSTANY CASE IS ALREADY IN ALEPPO COURT, USG WOULD BE PREPARED TO AWAIT OUTCOME OF ITS PROCEEDINGS. IN THE VIEW OF USG, PENDING PROCEEDINGS IN ALEPPO COURT ARE COMPLEMENTARY TO THE OVER-ALL USG CLAIM AGAINST SARG AND WE ARE, OF COURSE, RESERVING OUR RIGHT TO RAISE THE CLAIM THROUGH DIPLOMATIC CHANNELS. IF DR. IMADI SHOULD OBJECT STRONGLY TO THE PROPOSED HANDLING OF THE BOUSTANY CASE, AMBASSADOR MAY THEN PROPOSE THAT HE WRITE NEXT TO THE BOUSTANY CASE THE NOTATION "RESERVED WITHOUT PREJUDICE" AND STATE THAT SARG VIEWS WOULD BE REPORTED TO WASHINGTON FOR FURTHER CONSIDERATION.

4. IN RECENT EGYPTIAN CLAIMS NEGOTIATION, A SIMILAR PARALLEL HANDLING OF A CASE IN THE EGYPTIAN COURT AND CONSIDERATION THROUGH DIPLOMATIC CHANNELS BY AGREEMENT OF BOTH GOVERNMENTS DID NOT POSE LEGAL OR DIPLOMATIC OBSTACLES AND COMPLICATIONS SO LONG AS INTENT AND UNDERSTANDING OF BOTH GOVERNMENTS WERE CLEAR AND UNAMBIGUOUS.

5. REQUESTED TEXT AND CITATIONS OF STATUTES OF THE NEW YORK STATUTES OF LIMITATIONS REQUESTED REFTEL (A) WILL BE SUBJECT OF SEPTTEL. VANCE

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